

the consent of the Secretary, the mortgagee shall reimburse the Secretary for all expenses incurred in connection with such acquisition and reconveyance. The reimbursement shall include interest on the amount of insurance benefits refunded by the mortgagee from the date the insurance benefits were paid to the date of refund at an interest rate set in conformity with the Treasury Fiscal Requirements Manual, and the Secretary's cost of holding the property, accruing on a daily basis, from the date the deed to the Secretary was filed for record to the date of reconveyance. These costs are based on the Secretary's estimate of the taxes, maintenance and operating expenses of the property, and administrative expenses. Appropriate adjustments shall be made by the Secretary on account of any income received from the property.

[57 FR 47971, Oct. 20, 1992]

§ 203.365 Documents and information to be furnished the Secretary; claims review.

(a) *Items to be furnished the Secretary.* Within 45 days after the deed is filed for record, in the case of a conveyance claim; or, in the case of a claim arising from a pre-foreclosure sale, within 30 days after the closing of the pre-foreclosure sale, unless extended by the Commissioner, the mortgagee must forward to the Secretary:

(1) A copy of the deed to the Secretary that has been filed for record and the title evidence continued so as to include recordation of the deed; or evidence, as prescribed by the Secretary, of the closing of the pre-foreclosure sale.

(2) Fiscal data pertaining to the mortgage transaction.

(3) Any additional information or data that the Secretary may require.

(b) *Items to be retained by mortgagee.* The mortgagee must retain all cash amounts, held or deposited for the account of the mortgagor or to which it is entitled under the mortgage transaction, that have not been applied in reduction of the principal mortgage indebtedness.

(c) *Claim file to be maintained by mortgagee.* (1) The Secretary may verify the accuracy of information regarding the

insurance claim either before payment of the claim or after payment by periodic reviews of the mortgagee's records. Mortgagees must reimburse the Secretary for any claim and interest overpaid because of incorrect, unsupported, or inappropriate information provided by the mortgagee, or because of failure to provide correct information.

(2) Mortgagees must maintain a claim file containing documentation supporting all information submitted for claim payment for at least three years after a claim has been paid. All claim files for claims paid during a period relating to an unresolved or ongoing claim review must be maintained until final resolution of such review. Information to be maintained in the claim file includes receipts covering all disbursements as required by the fiscal data form, ledger cards covering the mortgage transaction, and any additional information or data relevant to the mortgage transaction or insurance claim.

(3) The Secretary may review any claim file at any time during the three-year period after the claim has been paid. Denial of access to any files will be grounds for withdrawal of the mortgagee's approved lender status, debarment by the Secretary, or immediate suspension of all claim payments.

(4) Within 24 hours of a request by the Secretary, a mortgagee must make available for review, or forward to the Secretary, hard copies of identified claim files.

(d) *Statistical sampling.* HUD may use statistical sampling in selecting claims to be reviewed and in determining the amount due the Secretary because of overpayment.

[57 FR 47972, Oct. 20, 1992, as amended at 59 FR 50144, Sept. 30, 1994]

§ 203.366 Conveyance of marketable title.

(a) *Satisfactory conveyance of title and transfer of possession.* The mortgagee shall tender to the Commissioner a satisfactory conveyance of title and transfer of possession of the property. The deed or other instrument of conveyance shall convey good marketable

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title to the property, which shall be accompanied by title evidence satisfactory to the Commissioner.

(b) *Conveyance of property without good marketable title.* (1) For mortgages insured under firm commitments issued on or after November 19, 1992, or under direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter on or after November 19, 1992, if the title to the property conveyed by the mortgagee to the Secretary is not good and marketable, the mortgagee must correct any title defect within 60 days after receiving notice from the Secretary, or within such further time as the Secretary may approve in writing.

(2) If the defect is not corrected within 60 days, or such further time as the Secretary approves in writing, the mortgagee must reimburse the Secretary for HUD's costs of holding the property, accruing on a daily basis, and interest on the amount of insurance benefits paid to the mortgagee at an interest rate set in conformity with the Treasury Fiscal Requirements Manual from the date of such notice to the date the defect is corrected or until the Secretary reconveys the property to the mortgagee, as described in paragraph (b)(3) of this section. The daily holding costs to be charged a mortgagee shall include the costs specified in § 203.364 of this part.

(3) If the title defect is not corrected within a reasonable time, as determined by HUD, the Secretary will, after notice, reconvey the property to the mortgagee and the mortgagee must reimburse the Secretary in accordance with §§ 203.363 and 203.364 of this part.

[36 FR 24508, Dec. 22, 1971, as amended at 57 FR 47972, Oct. 20, 1992; 61 FR 36453, July 10, 1996]

§ 203.367 Contents of deed and supporting documents.

The deed and supporting accompanying documents shall be as follows:

(a) *Deed.* A deed conveying the property to the Federal Housing Commissioner. The deed shall:

(1) Contain covenants which warrant title against acts of the grantor, and all claiming by, through, or under said grantor, if the grantor is the mortgagee or mortgagor; if the grantor is a

party other than the mortgagee or mortgagor, the special warranty covenants may be limited or amended to accord with the law of the particular jurisdiction.

(2) Recite nominal consideration, if such recital is adequate under the laws of the State in which the property is located or such other consideration as may be necessary to support the deed.

(b) *Maps or survey.* A map or diagram showing property location with reference to public streets or roads or a survey, if available. When a part of the property has been taken by condemnation proceedings or conveyance in lieu of condemnation, a map or diagram showing the part taken and the property remaining is required.

(c) *Credit documents.* The original credit and security instruments, if available or a deficiency judgment, if any, duly assigned or endorsed by the mortgagee, without recourse, to the Commissioner.

§ 203.368 Claims without conveyance procedure.

(a)(1) The requirements of this section apply to any insured mortgage subject to this subpart which was either insured pursuant to:

(i) A conditional commitment issued on or after November 30, 1983 or, as appropriate,

(ii) An application for mortgage insurance endorsement under the Single Family Direct Endorsement Program, as provided in § 203.255(b), where the property appraisal report was signed by the mortgagee's underwriter on or after November 30, 1983.

(2) The requirements of this section shall also apply to any other mortgages subject to this subpart where the mortgagee elects to provide the notice to HUD required by paragraph (d) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this section, the requirements of this section do not apply if the mortgaged property has been damaged as set out in § 203.378.

(c) Nothing in this section shall affect any rights or obligations arising under the procedures set forth in subpart C of this part.

(d) After initiating proceedings to foreclose an insured mortgage within